

Exhibit 381

United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.
v. Dey, Inc., et al., Civil Action No. 05-11084-PBS

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid in Support
of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment**

10/1/93 PRESCRIBED DRUGS

Reimbursement for prescribed drug claims is made in accordance with the provisions of 42 CFR 447.331 as pertaining to upper limits.

1. Reimbursement for covered drugs dispensed by a licensed pharmacy that has been approved to be an eligible provider, or a physician filling his own prescriptions if there is no licensed pharmacy within a ten mile radius of his office, shall not exceed the lowest of:
 - (a) The generic upper limit of payment (GULP), if established, for multiple source drugs, unless the drug is included on the Florida Negative Formulary, plus a dispensing fee.
 - (b) The estimated acquisition cost for the drug plus a dispensing fee.
 - (c) The provider's usual and customary charge to the general public (non-Medicaid), for the same drug, quality, and strength.

Definitions

1. EAC - Estimated Acquisition Cost (EAC) is the department's best estimate of what price providers generally and currently are paying for a drug, based on the package sizes providers buy most frequently. Except for a small number of drugs with special pricing problems for which various EAC methodologies are employed, EAC is calculated at wholesaler acquisition cost plus a percentage mark-up, based on acquisition price data supplied by American Drug Data Base (Blue Book). Wholesale Actual Cost (WAC) plus 7% is used for most drugs. WAC plus 18% to 22% is used for CII DEA controlled substances that vary with the actual market rate. This is usually defined as the Actual Wholesale Price (AWP).
2. GULP- Generic upper limit of payment as established by the Health Care Financing Administration or the state agency for multiple source drugs.

Multiple Source Drug Reimbursement Limitations

1. If the EAC for a multiple source drug dispensed by a provider is less than the established GULP for that product, the provider shall be reimbursed based upon the EAC price.
2. The generic upper limit of payment will be the maximum ingredient cost per unit payable unless listed on the Florida Negative Formulary.

Dispensing Fees

Dispensing fees for the program may be determined on the basis of surveys that are conducted periodically and take into account such pharmacy operational costs as overhead, professional services and profit. A \$4.23 dispensing fee per payable prescription shall be paid to pharmacies. For in-house unit dose packaging (as opposed to manufacturer pre-packaged), add 1 1/2 cents per dose.

Amendment 93-56
Effective 10/1/93
Supersedes 91-18

Approval 3-3-94